

1 **CHARTER SCHOOL ACCOUNTABILITY AMENDMENTS**

2 2024 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karianne Lisonbee**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **Committee Note:**

9 The Administrative Rules Review and General Oversight Committee recommended this
10 bill.

11 Legislative Vote: 6 voting for 1 voting against 3 absent

12 **General Description:**

13 This bill amends provisions of the charter school code.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ defines terms;
- 17 ▶ amends the State Charter School Board compilation;
- 18 ▶ amends certain charter school performance measures;
- 19 ▶ requires the State Charter School Board to create bylaws;
- 20 ▶ amends certain charter school accountability measures;
- 21 ▶ replaces the State Charter School Board duties regarding certain application

22 requests with charter school authorizers;

23 ▶ allows charter schools found in noncompliance of certain requirements opportunity
24 for a review of evidence of noncompliance before the charter school authorizer;

25 ▶ amends provisions regarding transfer of operations from a terminated charter school
26 to certain other entities; and

- 27 ▶ makes technical and conforming changes.



28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **53G-5-102**, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1

35 **53G-5-104**, as renumbered and amended by Laws of Utah 2018, Chapter 3

36 **53G-5-201**, as last amended by Laws of Utah 2020, Chapter 352

37 **53G-5-202**, as last amended by Laws of Utah 2021, Chapter 439

38 **53G-5-203**, as last amended by Laws of Utah 2021, Chapter 345

39 **53G-5-204**, as renumbered and amended by Laws of Utah 2018, Chapter 3

40 **53G-5-205**, as last amended by Laws of Utah 2023, Chapter 235

41 **53G-5-301**, as last amended by Laws of Utah 2019, Chapter 293

42 **53G-5-302**, as last amended by Laws of Utah 2019, Chapter 293

43 **53G-5-303**, as last amended by Laws of Utah 2022, Chapters 291, 352

44 **53G-5-304**, as last amended by Laws of Utah 2020, Chapter 408

45 **53G-5-305**, as last amended by Laws of Utah 2019, Chapter 293

46 **53G-5-306**, as last amended by Laws of Utah 2021, Chapter 324

47 **53G-5-307**, as enacted by Laws of Utah 2020, Chapter 192

48 **53G-5-401**, as renumbered and amended by Laws of Utah 2018, Chapter 3

49 **53G-5-404**, as last amended by Laws of Utah 2023, Chapter 352

50 **53G-5-406**, as last amended by Laws of Utah 2020, Chapter 408

51 **53G-5-413**, as last amended by Laws of Utah 2019, Chapter 136

52 **53G-5-501**, as last amended by Laws of Utah 2023, Chapter 54

53 **53G-5-502**, as last amended by Laws of Utah 2020, Chapter 192

54 **53G-5-503**, as last amended by Laws of Utah 2023, Chapter 164

55 **53G-5-504**, as last amended by Laws of Utah 2023, Chapters 54, 435



57 *Be it enacted by the Legislature of the state of Utah:*

58 Section 1. Section **53G-5-102** is amended to read:

59 **53G-5-102. Definitions.**

60 As used in this chapter:

61 (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and
62 includes:

- 63 (a) cash;
- 64 (b) stock or other investments;
- 65 (c) real property;
- 66 (d) equipment and supplies;
- 67 (e) an ownership interest;
- 68 (f) a license;
- 69 (g) a cause of action; and
- 70 (h) any similar property.

71 (2) "Charter school authorizer" or "authorizer" means an entity listed in Section
72 53G-5-205 that authorizes a charter school.

73 [~~(2) "Board of trustees of a~~

74 (3) "Institution of higher education [institution] board of trustees" or "board of
75 trustees" means:

- 76 (a) the board of trustees of:
 - 77 (i) the University of Utah;
 - 78 (ii) Utah State University;
 - 79 (iii) Weber State University;
 - 80 (iv) Southern Utah University;
 - 81 (v) Snow College;
 - 82 (vi) Utah Tech University;
 - 83 (vii) Utah Valley University; or
 - 84 (viii) Salt Lake Community College; [~~or~~
- 85 (b) a technical college board of trustees described in Section 53B-2a-108[~~;~~]; or
- 86 (c) a board of trustees of a private, nonprofit college or university in the state that is
87 accredited by the Northwest Commission on Colleges and Universities.

88 [~~(3) "Charter school authorizer" or "authorizer" means an entity listed in Section~~
89 ~~53G-5-205 that authorizes a charter school.]~~

90 Section 2. Section **53G-5-104** is amended to read:

91 **53G-5-104. Purpose of charter schools.**

92 The purposes of the state's charter schools [~~as a whole~~] are to:

93 (1) continue to improve student learning;

94 (2) encourage the use of different and innovative teaching methods;

95 (3) create new professional opportunities for educators that [~~will~~] allow [~~them~~]
96 educators to actively participate in designing and implementing [~~the~~] learning [~~program~~]
97 programs at the school;

98 (4) increase choice of learning opportunities for students;

99 (5) establish new educational models [~~of public schools~~] and [~~a~~] new [~~form~~] forms of
100 accountability [~~for schools that emphasizes the measurement of learning outcomes and the~~
101 ~~creation of innovative measurement tools~~] that emphasize unique performance measures and
102 innovative measurement tools to measure education outcomes;

103 (6) provide opportunities for greater parental involvement in management and
104 governance decisions at the school level; and

105 (7) expand public school choice in areas where there is a lack of school choice or
106 where schools have been identified for school improvement, corrective action, or restructuring
107 [~~under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.~~].

108 Section 3. Section **53G-5-201** is amended to read:

109 **53G-5-201. State Charter School Board created.**

110 (1) As used in this section, "organization that represents Utah's charter schools" means
111 an organization, except a governmental entity, that advocates for charter schools, charter school
112 parents, or charter school students.

113 (2) (a) [~~The~~] This section creates the State Charter School Board.

114 (b) [~~is created consisting of the following members appointed by the governor with~~]
115 With the advice and consent of the Senate, the governor shall appoint seven individuals to
116 serve on the State Charter School Board to consist of:

117 (i) one member who has expertise in finance [~~or~~], small business management, law, or
118 public policy;

119 (ii) [~~three~~] four members who:

120 (A) are nominated by an organization that represents Utah's charter schools; and

121 (B) have expertise or experience in developing or administering a charter school; and
 122 [~~(iii) two members who are nominated by the state board; and~~]
 123 [~~(iv)~~] (iii) [~~one member~~] two members who [~~:(A) has~~] have expertise in [~~personalized~~
 124 ~~learning, including digital teaching and learning or deliberate practice; and (B) supports~~]
 125 innovation in education.

126 [~~(b)~~] (c) Each appointee shall have demonstrated dedication to the purposes of charter
 127 schools as [~~outlined~~] described in Section 53G-5-104.

128 [~~(c)~~] (d) At least two candidates shall be nominated for each appointment made under
 129 Subsection [~~(2)(a)(ii) or (iii)~~] (2)(b)(ii).

130 [~~(d)~~] (e) The governor may seek nominations for a prospective appointment under
 131 Subsection [~~(2)(a)(ii)~~] (2)(b)(ii) from one or more organizations that represent Utah's charter
 132 schools.

133 (3) (a) State Charter School Board members shall serve four-year terms.

134 (b) If a vacancy occurs, the governor shall, with the advice and consent of the Senate, [
 135]appoint a replacement for the unexpired term, in accordance with Title 63G, Chapter 24, Part
 136 2, Vacancies.

137 (4) The governor may remove a member at any time for official misconduct, habitual
 138 or willful neglect of duty, or for other good and sufficient cause.

139 (5) (a) The State Charter School Board shall [~~annually elect a chair from its~~
 140 ~~membership~~] create bylaws to govern the State Charter School Board operations.

141 (b) Four members of the State Charter School Board shall constitute a quorum.

142 (c) Meetings may be called by the chair or upon request of three members of the State
 143 Charter School Board.

144 (6) A member may not receive compensation or benefits for the member's service, but
 145 may receive per diem and travel expenses in accordance with:

146 (a) Section 63A-3-106 [~~;(b)~~] and Section 63A-3-107; and

147 [~~(c)~~] (b) rules [~~made by~~] that the Division of Finance [~~pursuant to~~] makes in
 148 accordance with Sections 63A-3-106 and 63A-3-107.

149 Section 4. Section **53G-5-202** is amended to read:

150 **53G-5-202. Status and powers of State Charter School Board.**

151 (1) The State Charter School Board may:

- 152 (a) enter into contracts;
- 153 (b) sue and be sued; and
- 154 (c) (i) at the discretion of the charter school, provide administrative services to, or
- 155 perform other school functions for, charter schools authorized by the State Charter School
- 156 Board; and
- 157 (ii) charge fees for the provision of services or functions.

158 (2) The state board shall:

159 (a) approve [~~the annual budget and expenditures of~~] the State Charter School [~~Board~~]

160 Board's annual budget; and

161 (b) otherwise grant autonomy to the State Charter School Board to manage the State

162 Charter School Board's budget.

163 Section 5. Section **53G-5-203** is amended to read:

164 **53G-5-203. State Charter School Board -- Staff director -- Facilities.**

165 (1) (a) The State Charter School Board[~~, with the consent of the state superintendent,~~]

166 shall appoint a staff director for the State Charter School Board.

167 (b) The State Charter School Board shall have authority to remove the staff director

168 [~~with the consent of the state superintendent~~].

169 (c) The position of staff director is exempt from the career service provisions of Title

170 63A, Chapter 17, Utah State Personnel Management Act.

171 (2) The state superintendent shall provide space for [~~staff of the~~] State Charter School

172 Board staff in facilities occupied by the state board or the state board's employees, with costs

173 charged for the facilities equal to those charged to other sections and divisions under the state

174 board.

175 (3) Notwithstanding Subsection (2), the State Charter School Board may use facilities

176 for State Charter School Board operations other than facilities that the state board or the state

177 board's employees occupy.

178 Section 6. Section **53G-5-204** is amended to read:

179 **53G-5-204. Charter school innovative practices -- Report to State Charter School**

180 **Board.**

181 [~~Prior to~~]

182 (1) On or before July 31 of each year, a charter school may identify and report to the

183 State Charter School Board ~~[its]~~ the charter school's innovative practices which fulfill the
 184 purposes of charter schools as ~~[outlined]~~ described in Section [53G-5-104](#), including:

185 ~~[(1)]~~ (a) unique learning opportunities providing increased choice in education;

186 ~~[(2)]~~ (b) new public school models;

187 ~~[(3)]~~ (c) innovative teaching practices;

188 ~~[(4)]~~ (d) opportunities for educators to actively participate in the design and
 189 implementation of the learning program;

190 ~~[(5)]~~ (e) new forms of accountability emphasizing ~~[the measurement of learning~~
 191 ~~outcomes and the creation of new]~~ measurement tools in measuring education outcomes;

192 ~~[(6)]~~ (f) opportunities for greater parental involvement, including involvement in
 193 ~~[management]~~ governance decisions; and

194 ~~[(7)]~~ (g) the impact of the innovative practices on student achievement.

195 (2) The Charter School Board may forward the report received under Subsection (1) to
 196 the state board.

197 Section 7. Section **53G-5-205** is amended to read:

198 **53G-5-205. Charter school authorizers -- Power and duties -- Charter application**
 199 **minimum standard.**

200 (1) The following entities are eligible to authorize charter schools:

201 (a) the State Charter School Board;

202 (b) a local school board; or

203 (c) ~~[a board of trustees of an institution in the state system of higher education as~~
 204 ~~described]~~ an institution of higher education board of trustees, as that term is defined in Section
 205 [~~53B-1-102~~; or] [53G-5-102](#).

206 ~~[(d) a board of trustees of a private, nonprofit college or university in the state that is~~
 207 ~~accredited by the Northwest Commission on Colleges and Universities.]~~

208 (2) A charter school authorizer shall:

209 (a) authorize and promote the establishment of charter schools;

210 (b) before an application for charter school authorization is submitted to a charter
 211 school authorizer, review and evaluate the proposal to support and strengthen the charter
 212 school authorization proposal;

213 (c) ~~[annually]~~ review and evaluate the performance of charter schools authorized by the

214 authorizer and hold a charter school accountable for the ~~[school's]~~ performance measures
215 established in the charter school's charter agreement; [and]

216 ~~[(b) monitor charter schools authorized by the authorizer for compliance with federal~~
217 ~~and state laws, rules, and regulations;]~~

218 (d) assist charter schools in understanding and carrying out the charter school's charter
219 obligations; and

220 (e) provide technical support to charter schools and persons seeking to establish charter
221 schools by:

222 (i) identifying and promoting successful charter school models;

223 (ii) facilitating the application and approval process for charter school authorization; or

224 (iii) directing charter schools and persons seeking to establish charter schools to
225 sources of funding and support.

226 (3) A charter school authorizer may:

227 ~~[(a) authorize and promote the establishment of charter schools, subject to the~~
228 ~~provisions in this part;]~~

229 ~~[(b)]~~ (a) make recommendations to the Legislature on legislation ~~[and rules]~~ pertaining
230 to charter schools ~~[to the Legislature and state board, respectively];~~

231 ~~[(c)]~~ (b) make recommendations to the state board on [the] charter school rules and
232 charter school funding [of charter schools]; or

233 ~~[(d) provide technical support to charter schools and persons seeking to establish~~
234 ~~charter schools by:]~~

235 ~~[(i) identifying and promoting successful charter school models;]~~

236 ~~[(ii) facilitating the application and approval process for charter school authorization;]~~

237 ~~[(iii) directing charter schools and persons seeking to establish charter schools to~~
238 ~~sources of funding and support;]~~

239 ~~[(iv) reviewing and evaluating proposals to establish charter schools for the purpose of~~
240 ~~supporting and strengthening proposals before an application for charter school authorization is~~
241 ~~submitted to a charter school authorizer; or]~~

242 ~~[(v) assisting charter schools to understand and carry out their charter obligations; or]~~

243 ~~[(e)]~~ (c) provide technical support, as requested, to another charter school authorizer
244 relating to charter schools.

245 (4) Within 60 days after ~~[an authorizer's approval of]~~ the day on which an authorizer
 246 approves an application for a new charter school, the state board may direct an authorizer to do
 247 the following if the authorizer or charter school applicant failed to follow statutory or state
 248 board rule requirements made in accordance with Title 63G, Chapter 3, Utah Administrative
 249 Rulemaking Act:

250 (a) reconsider the authorizer's approval of an application for a new charter school; and

251 (b) correct deficiencies in the charter school application or authorizer's application
 252 process as described in statute or state board rule, made in accordance with Title 63G, Chapter
 253 3, Utah Administrative Rulemaking Act, before approving the new application.

254 (5) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
 255 Rulemaking Act, make rules establishing minimum standards that a charter school authorizer is
 256 required to apply when ~~[-(a)]~~ evaluating a charter school application ~~[-or]~~.

257 ~~[(b) monitoring charter school compliance.]~~

258 (6) The minimum standards described in Subsection (5) shall include:

259 (a) reasonable consequences for an authorizer that fails to comply with statute or state
 260 board rule;

261 (b) a process for an authorizer to review:

262 (i) the skill and expertise of a proposed charter school's governing board; and

263 (ii) the functioning operation of the charter school governing board of an authorized
 264 charter school;

265 (c) a process for an authorizer to review the financial viability of a proposed charter
 266 school and of an authorized charter school;

267 (d) a process to evaluate:

268 (i) how well an authorizer's authorized charter school complies with the charter
 269 school's charter agreement;

270 (ii) whether an authorizer's authorized charter school maintains reasonable ~~[academic]~~
 271 education standards; and

272 (iii) standards that an authorizer is required to meet to demonstrate the authorizer's
 273 capacity to oversee ~~[-monitor,]~~ and evaluate the charter schools the authorizer authorizes.

274 Section 8. Section **53G-5-301** is amended to read:

275 **53G-5-301. Charter school authorizer to request applications for certain types of**

276 **charter schools.**

277 (1) To meet the unique learning styles and needs of students, [~~the State Charter School~~
278 ~~Board~~] a charter school authorizer shall seek to expand the types of instructional methods and
279 programs offered by schools, as provided in this section.

280 (2) (a) [~~The State Charter School Board~~] A charter school authorizer shall request
281 individuals, groups of individuals, or [~~not-for-profit~~] nonprofit legal entities to submit an
282 application to [~~the State Charter School Board~~] a charter school authorizer to establish a charter
283 school that employs new and creative methods to meet the unique learning styles and needs of
284 students, such as:

285 (i) a military charter school;

286 (ii) a charter school [~~whose mission is to enhance~~] that focuses on learning
287 opportunities for students at risk of academic failure;

288 (iii) a charter school [~~whose focus is~~] that focuses on career and technical education;

289 (iv) a single gender charter school; [~~or~~]

290 (v) a charter school with an international focus that provides opportunities for the
291 exchange of students or teachers[-];

292 (vi) a charter school that focuses on serving underserved students; or

293 (vii) an alternative charter school offering programs for nontraditional students.

294 (b) In addition to a charter school identified in Subsection (2)(a), [~~the State Charter~~
295 ~~School Board~~] a charter school authorizer shall request applications for other types of charter
296 schools that meet the unique learning styles and needs of students.

297 (3) [~~The State Charter School Board~~] A charter school authorizer shall publicize a
298 request for applications to establish a charter school specified in Subsection (2).

299 (4) A charter school application submitted pursuant to Subsection (2) shall be subject
300 to the application and approval procedures [~~specified in~~] in accordance with Section
301 53G-5-304.

302 (5) [~~The State Charter School Board~~] A charter school authorizer and the state board
303 may approve one or more applications for each charter school [~~specified~~] described in
304 Subsection (2), subject to the Legislature appropriating funds for, or authorizing, an increase in
305 charter school enrollment capacity as [~~provided~~] described in Section 53G-6-504.

306 (6) The state board shall submit a request to the Legislature to appropriate funds for, or

307 authorize, the enrollment of students in charter schools tentatively approved under this section.

308 Section 9. Section **53G-5-302** is amended to read:

309 **53G-5-302. Charter school application -- Applicants -- Contents.**

310 (1) (a) An application to establish a charter school may be submitted by:

311 (i) an individual;

312 (ii) a group of individuals; or

313 (iii) a nonprofit legal entity organized under Utah law.

314 (b) An authorized charter school may apply under this chapter for a charter from

315 another charter school authorizer.

316 (2) A charter school application shall include:

317 (a) the purpose and mission of the school;

318 (b) except for a charter school authorized by a local school board, a statement that,

319 after entering into a charter agreement, the charter school will be organized and managed

320 [~~under~~] in accordance with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

321 (c) a description of the governance structure of the school, including:

322 (i) a list of the charter school governing board members that describes the

323 qualifications of each member; and

324 (ii) an assurance that the applicant shall, within 30 days of the date of authorization,

325 complete a background check for each member [~~consistent with~~] in accordance with Section

326 **53G-5-408**;

327 (d) a description of the target population of the school that includes:

328 (i) the projected maximum number of students the school proposes to enroll;

329 (ii) the projected school enrollment for each of the first three years of school operation;

330 and

331 (iii) the ages or grade levels the school proposes to serve;

332 (e) [~~academic goals~~] the school's unique performance measures;

333 (f) qualifications and policies for school employees, including policies that:

334 (i) comply with the criminal background check requirements [~~described in~~] in

335 accordance with Section **53G-5-408**;

336 (ii) require employee evaluations;

337 (iii) address employment of relatives within the charter school; and

- 338 (iv) address human resource management and ensure that:
- 339 (A) at least one of the school's employees or another person is assigned human
- 340 resource management duties, as defined in Section 17B-1-805; and
- 341 (B) the assigned employee or person described in Subsection (2)(f)(iv)(A) receives
- 342 human resource management training, as defined in Section 17B-1-805;
- 343 (g) a description of how the charter school will provide, as required by state and federal
- 344 law, special education and related services;
- 345 (h) for a [public] school district converting to charter status, arrangements for:
- 346 (i) students who choose not to continue attending the charter school; and
- 347 (ii) teachers who choose not to continue teaching at the charter school;
- 348 (i) a statement that describes the charter school's plan for establishing the charter
- 349 school's facilities, including:
- 350 (i) whether the charter school intends to lease or purchase the charter school's facilities;
- 351 and
- 352 (ii) anticipated financing arrangements;
- 353 (j) a market analysis of the community the school plans to serve;
- 354 (k) a business plan;
- 355 (l) other major issues involving the establishment and operation of the charter school;
- 356 and
- 357 (m) the signatures of the charter school governing board members.
- 358 (3) A charter school authorizer may require a charter school application to include:
- 359 (a) the charter school's proposed:
- 360 (i) curriculum;
- 361 (ii) instructional program; or
- 362 (iii) delivery methods;
- 363 (b) a method for assessing whether students are reaching [~~academic goals, including, at~~
- 364 ~~a minimum,~~] the school's performance measures, including administering the statewide
- 365 assessments [~~described~~] as defined in Section 53E-4-301;
- 366 (c) a proposed calendar;
- 367 (d) sample policies;
- 368 (e) a description of opportunities for parental involvement;

369 (f) a description of the school's administrative, supervisory, or other proposed services
 370 that may be obtained through service providers; or

371 (g) other information that demonstrates an applicant's ability to establish and operate a
 372 charter school.

373 Section 10. Section **53G-5-303** is amended to read:

374 **53G-5-303. Charter agreement -- Content -- Modification.**

375 [~~(1)~~] As used in this section:

376 [~~(2)~~] (1) (a) "Innovation plan" means the same as that term is defined in Section
 377 **53G-7-221**.

378 (b) "Satellite charter school" means a charter school affiliated with an operating charter
 379 school, which has the same charter school governing board and a similar program of
 380 instruction, but has a different school number than the affiliated charter.

381 [~~(3)~~] (2) A charter agreement:

382 (a) is a contract between the charter school applicant and the charter school authorizer;

383 (b) shall describe the rights and responsibilities of each party; and

384 (c) shall allow for the operation of the applicant's proposed charter school.

385 [~~(4)~~] (3) A charter agreement shall include:

386 (a) the name of:

387 (i) the charter school; and

388 (ii) [~~the charter school applicant~~] the entity with whom the charter school authorizer

389 contracts;

390 (b) the mission statement and purpose of the charter school;

391 (c) the charter school's opening date;

392 (d) the grade levels the charter school will serve;

393 (e) (i) subject to Section **53G-6-504**, the maximum number of students a charter school
 394 will serve; or

395 (ii) for an operating charter school with satellite charter schools, the maximum number
 396 of students of all satellite charter schools collectively served by the operating charter school;

397 (f) a description of the structure of the charter school governing board, including:

398 (i) the number of charter school governing board members;

399 (ii) how members of the charter school governing board are appointed; and

- 400 (iii) charter school governing board members' terms of office;
- 401 (g) assurances that:
- 402 (i) the charter school governing board will comply with:
- 403 (A) the charter school's bylaws;
- 404 (B) the charter school's articles of incorporation; and
- 405 (C) applicable federal law, state law, and state board rules;
- 406 (ii) the charter school governing board will meet all reporting requirements described
- 407 in Section 53G-5-404; and
- 408 (iii) except as provided in Part 6, Charter School Credit Enhancement Program, neither
- 409 the authorizer nor the state, including an agency of the state, is liable for the debts or financial
- 410 obligations of the charter school or a person who operates the charter school;
- 411 (h) which administrative rules the state board will waive for the charter school;
- 412 (i) minimum financial standards for operating the charter school;
- 413 (j) minimum performance standards [~~for student achievement~~]; and
- 414 (k) signatures of the charter school authorizer and the charter school governing board
- 415 members.

416 [~~(5)~~] (4) (a) Except as provided in Subsection [~~(5)(b)~~] (4)(b), a charter agreement may
 417 not be modified except by mutual agreement between the charter school authorizer and the
 418 charter school governing board.

- 419 (b) A charter school governing board may modify the charter school's charter
- 420 agreement without the mutual agreement described in Subsection [~~(5)(a)~~] (4)(a) to:
- 421 (i) include an enrollment preference as described in Subsection 53G-6-502(4)(h); or
- 422 (ii) only as described in Subsection 53G-7-221(5), include or remove an innovation
- 423 plan.

424 Section 11. Section 53G-5-304 is amended to read:

425 **53G-5-304. Charter schools authorized by the State Charter School Board --**
 426 **Application process -- Prohibited basis of application denial.**

427 (1) (a) An applicant seeking authorization of a charter school from the State Charter
 428 School Board shall provide a copy of the application to the local school board of the school
 429 district in which the proposed charter school [~~shall~~] will be located either before or at the same
 430 time [~~it~~] as the applicant files [~~its~~] the charter school application with the State Charter School

431 Board.

432 (b) The local school board may review the application and may offer suggestions or
433 recommendations to the applicant or the State Charter School Board [~~prior to its acting~~] before
434 taking action on the application.

435 (c) The State Charter School Board shall give due consideration to suggestions or
436 recommendations made by the local school board under Subsection (1)(b).

437 (d) The State Charter School Board shall review and, by majority vote, either approve
438 or deny the application.

439 (e) A charter school application may not be denied on the basis that the establishment
440 of the charter school will have any or all of the following impacts on a public school, including
441 another charter school:

442 (i) an enrollment decline;

443 (ii) a decrease in funding; or

444 (iii) a modification of programs or services.

445 (2) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative
446 Rulemaking Act, make a rule providing a timeline for the opening of a charter school following
447 the approval of a charter school application by the State Charter School Board.

448 (3) After approval of a charter school application and in accordance with Section
449 [53G-5-303](#), the applicant and the State Charter School Board shall set forth the terms and
450 conditions for the operation of the charter school in a written charter agreement.

451 (4) The State Charter School Board shall, in accordance with state board rules,
452 establish and make public the State Charter School Board's:

453 (a) application requirements, in accordance with Section [53G-5-302](#);

454 (b) application process, including timelines, in accordance with this section; and

455 (c) minimum [~~academic~~] governance, operational, and financial [~~and enrollment~~]
456 standards.

457 Section 12. Section [53G-5-305](#) is amended to read:

458 **[53G-5-305. Charters authorized by local school boards -- Application process --](#)**

459 **Local school board responsibilities.**

460 (1) (a) An applicant identified in Section [53G-5-302](#) may submit an application to a
461 local school board to establish and operate a charter school within the geographical boundaries

462 of the school district administered by the local school board.

463 (b) (i) The principal, teachers, or parents of students at an existing public school may
464 submit an application to the local school board to convert the school or a portion of the school
465 to charter status.

466 (A) If the entire school is applying for charter status, at least two-thirds of the licensed
467 educators employed at the school and at least two-thirds of the parents of students enrolled at
468 the school ~~[must have signed]~~ shall sign a petition approving the application ~~[prior to its]~~
469 before submission to the charter school authorizer.

470 (B) If only a portion of the school is applying for charter status, ~~[the percentage is~~
471 ~~reduced to]~~ a simple majority of the licensed educators employed at the school and a simple
472 majority of the parents of students enrolled at the school shall sign a petition approving the
473 application before submission to the charter school authorizer.

474 (ii) The local school board may not approve an application submitted under Subsection
475 (1)(b)(i) unless the local school board determines that:

476 (A) students opting not to attend the proposed converted school would have access to a
477 comparable public education alternative; and

478 (B) current teachers who choose not to teach at the converted charter school or who are
479 not retained by the school at the time of ~~[its]~~ conversion would receive a first preference for
480 transfer to open teaching positions for which ~~[they]~~ the teachers qualify within the school
481 district, and, if no positions are open, contract provisions or local school board policy regarding
482 reduction in staff would apply.

483 (2) (a) An existing public school that converts to charter status under a charter granted
484 by a local school board may:

485 (i) continue to receive the same services from the school district that ~~[it]~~ the school
486 received ~~[prior to its]~~ before the charter school's conversion; or

487 (ii) contract out for some or all of ~~[those]~~ the services with other public or private
488 providers.

489 (b) Any other charter school authorized by a local school board may contract with the
490 local school board to receive some or all of the services referred to in Subsection (2)(a).

491 (c) Except as specified in a charter agreement, local school board assets do not transfer
492 to an existing public school that converts to charter status under a charter granted by a local

493 school board under this section.

494 (3) (a) A local school board that receives an application for a charter school under this
495 section shall, within 45 days, either accept or reject the application.

496 (b) If the local school board rejects the application, ~~[it]~~ the local school board shall
497 notify the applicant in writing of the reason for the rejection.

498 (c) The applicant may submit a revised application for reconsideration by the local
499 school board.

500 (d) If the local school board refuses to authorize the applicant, the applicant may seek a
501 charter from another authorizer.

502 (4) The state board shall make a rule providing for a timeline for the opening of a
503 charter school following the approval of a charter school application by a local school board.

504 (5) After approval of a charter school application and in accordance with Section
505 [53G-5-303](#), the applicant and the local school board shall set forth the terms and conditions for
506 the operation of the charter school in a written charter agreement.

507 (6) A local school board may terminate a charter school ~~[it]~~ the local school board
508 authorizes ~~[as provided in]~~ in accordance with Sections [53G-5-501](#) and [53G-5-503](#).

509 (7) In addition to the exemptions described in Sections [53G-5-405](#), [53G-7-202](#), and
510 [53G-5-407](#), a charter school authorized by a local school board is:

511 (a) not required to separately submit a report or information required under this public
512 education code to the state board if the information is included in a report or information that is
513 submitted by the local school board or school district; and

514 (b) exempt from the requirement under Section [53G-5-404](#) that a charter school shall
515 be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation
516 Act.

517 (8) Before a local school board accepts a charter school application, the local school
518 board shall, in accordance with state board rules, establish and make public the local school
519 board's:

520 (a) application requirements, in accordance with Section [53G-5-302](#);

521 (b) application process, including timelines, in accordance with this section; and

522 (c) minimum ~~[academic]~~ governance, operational, and financial~~[, and enrollment]~~
523 standards.

524 Section 13. Section **53G-5-306** is amended to read:

525 **53G-5-306. Charter schools authorized by a board of trustees of a higher**
526 **education institution -- Application process -- Board of trustees responsibilities.**

527 (1) Except as provided in Subsection (6), an applicant identified in Section **53G-5-302**
528 may enter into an agreement with [~~a board of trustees of a higher education institution~~] an
529 institution of higher education board of trustees authorizing the applicant to establish and
530 operate a charter school.

531 (2) (a) An applicant applying for authorization from a board of trustees to establish and
532 operate a charter school shall provide a copy of the application to the local school board of the
533 school district in which the proposed charter school will be located either before or at the same
534 time the applicant files the application with the board of trustees.

535 (b) The local school board may review the application and offer suggestions or
536 recommendations to the applicant or the board of trustees before acting on the application.

537 (c) The board of trustees shall give due consideration to suggestions or
538 recommendations made by the local school board under Subsection (2)(b).

539 (3) The state board shall make a rule providing a timeline for the opening of a charter
540 school following the approval of a charter school application by a board of trustees.

541 (4) After approval of a charter school application, the applicant and the board of
542 trustees shall set forth the terms and conditions for the operation of the charter school in a
543 written charter agreement.

544 (5) (a) The school's charter agreement may include a provision that the charter school
545 pay an annual fee for the board of trustees' costs in providing oversight of, and technical
546 support to, the charter school in accordance with Section **53G-5-205**.

547 (b) In the first two years that a charter school is in operation, an annual fee described in
548 Subsection (5)(a) may not exceed the product of 3% of the revenue the charter school receives
549 from the state in the current fiscal year.

550 (c) Beginning with the third year that a charter school is in operation, an annual fee
551 described in Subsection (5)(a) may not exceed the product of 1% of the revenue a charter
552 school receives from the state in the current fiscal year.

553 (d) An annual fee described in Subsection (5)(a) shall be:

554 (i) paid to the [~~board of trustees' higher education institution~~] board of trustees; and

555 (ii) expended as directed by the board of trustees.

556 (6) (a) In addition to complying with the requirements of this section, a technical
557 college board of trustees [~~described~~], as defined in Section [53B-2a-108](#), shall obtain the
558 approval of the Utah Board of Higher Education before entering into an agreement to establish
559 and operate a charter school.

560 (b) If a technical college board of trustees approves an application to establish and
561 operate a charter school, the technical college board of trustees shall submit the application to
562 the Utah Board of Higher Education.

563 (c) The Utah Board of Higher Education shall, by majority vote, within 60 days of
564 receipt of an application described in Subsection (6)(b), approve or deny the application.

565 (d) The Utah Board of Higher Education may deny an application approved by a
566 technical college board of trustees if the proposed charter school does not accomplish a
567 purpose of charter schools as provided in Section [53G-5-104](#).

568 (e) A charter school application may not be denied on the basis that the establishment
569 of the charter school will have any or all of the following impacts on a public school, including
570 another charter school:

- 571 (i) an enrollment decline;
572 (ii) a decrease in funding; or
573 (iii) a modification of programs or services.

574 (7) (a) Subject to the requirements of this chapter and other related provisions, a
575 technical college board of trustees may establish:

- 576 (i) procedures for submitting applications to establish and operate a charter school; or
577 (ii) criteria for approval of an application to establish and operate a charter school.

578 (b) The Utah Board of Higher Education may not establish policy governing the
579 procedures or criteria described in Subsection (7)(a).

580 (8) Before a technical college board of trustees accepts a charter school application, the
581 technical college board of trustees shall, in accordance with state board rules, establish and
582 make public:

- 583 (a) application requirements, in accordance with Section [53G-5-302](#);
584 (b) the application process, including timelines, in accordance with this section; and
585 (c) minimum [~~academic~~] governance, operational, and financial[~~, and enrollment~~]

586 standards.

587 Section 14. Section **53G-5-307** is amended to read:

588 **53G-5-307. Charter school authorization -- Initial review period.**

589 (1) An authorizer shall grant a charter school approved under this title initial approval
590 for a three-year review period, beginning with the first year of the charter school's operation.

591 (2) Beginning in the first year of the initial review period, the authorizer shall comply
592 with the accountability and review procedures [~~described~~] in accordance with Section
593 **53G-5-406**.

594 (3) The authorizer may extend the initial review period for one year, up to two times
595 during the initial review period.

596 (4) At the end of the initial review period, the authorizer shall:

597 (a) grant the charter school ongoing approval; or

598 (b) terminate the charter agreement, subject to the requirements of Section **53G-5-503**.

599 (5) The authorizer shall, under the minimum standards described in Section
600 **53G-5-205**, base the decision to grant ongoing approval or terminate the charter agreement on:

601 (a) the charter school's compliance with the terms of the charter agreement;

602 (b) whether the charter school is meeting [~~academic standards~~] the performance
603 measures in the charter school's charter agreement;

604 (c) the charter school's financial viability; and

605 (d) the charter school's capacity to meet governance standards.

606 (6) A charter school that is granted initial approval under this section may not
607 participate in the Charter School Credit Enhancement Program until the authorizer grants
608 ongoing approval of the charter school's charter.

609 Section 15. Section **53G-5-401** is amended to read:

610 **53G-5-401. Status of charter schools.**

611 (1) Charter schools are:

612 (a) considered to be public schools within the state's public education system;

613 (b) subject to Subsection **53E-3-401**(8); and

614 (c) governed by independent boards and held accountable to a legally binding written
615 contractual agreement.

616 (2) A charter school may be established by:

- 617 (a) creating a new school; or
- 618 (b) converting an existing [~~public~~] district school to charter status.
- 619 (3) A parochial school or home school is not eligible for charter school status.

620 Section 16. Section ~~53G-5-404~~ is amended to read:

621 **53G-5-404. Requirements for charter schools.**

622 (1) A charter school shall be nonsectarian in [~~its~~] the charter school's programs,
623 admission policies, employment practices, and operations.

624 (2) A charter school may not charge tuition or fees, except those fees normally charged
625 by other public schools.

626 (3) A charter school shall meet all applicable federal, state, and local health, safety, and
627 civil rights requirements.

628 (4) (a) A charter school shall:

629 (i) make the same annual reports required of other public schools under this public
630 education code, including an annual financial audit report described in Section ~~53G-4-404~~;

631 (ii) ensure that the charter school meets the data and reporting standards described in
632 Section ~~53E-3-501~~; and

633 (iii) use fund and program accounting methods and standardized account codes capable
634 of producing financial reports that comply with:

635 (A) generally accepted accounting principles;

636 (B) the financial reporting requirements applicable to LEAs established by the state
637 board under Section ~~53E-3-501~~; and

638 (C) accounting report standards established by the state auditor as described in Section
639 ~~51-2a-301~~.

640 (b) Before, and as a condition for opening a charter school:

641 (i) a charter school shall:

642 (A) certify to the authorizer that the charter school's accounting methods meet the
643 requirements described in Subsection (4)(a)(iii); or

644 (B) if the authorizer requires, conduct a performance demonstration to verify that the
645 charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii);
646 and

647 (ii) the authorizer shall certify to the state board that the charter school's accounting

648 methods meet the requirements described in Subsection (4)(a)(iii).

649 (c) A charter school shall file the charter school's annual financial audit report with the
650 Office of the State Auditor within six months of the end of the fiscal year.

651 (d) For the limited purpose of compliance with federal and state law governing use of
652 public education funds, including restricted funds, and making annual financial audit reports
653 under this section, a charter school is a government entity governed by the public education
654 code.

655 (5) (a) A charter school shall be accountable to the charter school's authorizer for
656 performance as provided in the charter school's charter agreement.

657 (b) To measure the performance of a charter school, an authorizer may use data
658 contained in:

659 (i) the charter school's annual financial audit report;

660 (ii) a report submitted by the charter school as required by statute; or

661 (iii) a report submitted by the charter school as required by ~~[its]~~ the charter school's
662 charter agreement.

663 (c) A charter school authorizer may not impose performance standards, except as
664 permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully
665 accomplish the purposes of charter schools as provided in Section [53G-5-104](#) or as otherwise
666 provided in law.

667 (6) A charter school may not advocate unlawful behavior.

668 (7) Except as provided in Section [53G-5-305](#), a charter school shall be organized and
669 managed ~~[under]~~ in accordance with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation
670 Act, ~~[after its]~~ upon the charter school's authorization.

671 (8) A charter school shall provide adequate liability and other appropriate insurance,
672 including:

673 (a) general liability, errors and omissions, and directors and officers liability coverage
674 through completion of the closure of a charter school ~~[under]~~ in accordance with Section
675 [53G-5-504](#); and

676 (b) tail coverage or closeout insurance covering at least one year after closure of the
677 charter school.

678 ~~[(9) Beginning on July 1, 2014, a charter school, including a charter school that has not~~

679 ~~yet opened, shall submit any lease, lease-purchase agreement, or other contract or agreement~~
680 ~~relating to the charter school's facilities or financing of the charter school's facilities to the~~
681 ~~school's authorizer and an attorney for review and advice before the charter school enters the~~
682 ~~lease, agreement, or contract.]~~

683 ~~[(10)]~~ (9) A charter school may not employ an educator whose license is suspended or
684 revoked by the state board under Section 53E-6-604.

685 ~~[(11)]~~ (10) (a) Each charter school shall register and maintain the charter school's
686 registration as a limited purpose entity, in accordance with Section 67-1a-15.

687 (b) A charter school that fails to comply with Subsection ~~[(11)(a)]~~ (10)(a) or Section
688 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

689 (c) If a charter school is an operating charter school with affiliated satellite charter
690 schools, as defined in Section 53G-5-303:

691 (i) the operating charter school shall register as a limited purpose entity as defined in
692 Section 67-1a-15;

693 (ii) each affiliated satellite charter school is not required to register separately from the
694 operating charter school; and

695 (iii) the operating charter school shall:

696 (A) register on behalf of each affiliated satellite charter school; and

697 (B) when submitting entity registry information ~~[under]~~ in accordance with Section
698 67-1a-15 on behalf of each affiliated satellite charter school, identify and distinguish registry
699 information for each affiliated satellite, including the address of each affiliated satellite charter
700 school and the name and contact information of a primary contact for each affiliated satellite
701 charter school.

702 ~~[(12)]~~ (11) (a) As used in this Subsection ~~[(12)]~~ (11), "contracting entity" means a
703 person with which a charter school contracts.

704 (b) A charter school shall provide to the charter school's authorizer any information or
705 documents requested by the authorizer, including documents held by a subsidiary of the charter
706 school or a contracting entity:

707 (i) to confirm the charter school's compliance with state or federal law governing the
708 charter school's finances or governance; or

709 (ii) to carry out the authorizer's statutory obligations, including liquidation and

710 assignment of assets, and payment of debt in accordance with state board rule, as described in
711 Section 53G-5-504.

712 (c) A charter school shall comply with a request described in Subsection [~~(12)~~(b)]
713 (11)(b), including after an authorizer recommends closure of the charter school or terminates
714 the charter school's contract.

715 (d) Documents held by a contracting entity or subsidiary of a charter school that are
716 necessary to demonstrate the charter school's compliance with state or federal law are the
717 property of the charter school.

718 (e) A charter school shall include in an agreement with a subsidiary of the charter
719 school or a contracting entity a provision that stipulates that documents held by the subsidiary
720 or a contracting entity, that are necessary to demonstrate the charter school's financial
721 compliance with federal or state law, are the property of the charter school.

722 [~~(13)~~] (12) For each grading period and for each course in which a student is enrolled,
723 a charter school shall issue a grade or performance report to the student:

724 (a) that reflects the student's work, including the student's progress based on mastery,
725 for the grading period; and

726 (b) in accordance with the charter school's adopted grading or performance standards
727 and criteria.

728 [~~(14)~~] (13) (a) As used in this Subsection [~~(14)~~] (13):

729 (i) "Learning material" means any learning material or resource used to deliver or
730 support a student's learning, including textbooks, reading materials, videos, digital materials,
731 websites, and other online applications.

732 (ii) (A) "Instructional material" means learning material that a charter school governing
733 board adopts and approves for use within the charter school.

734 (B) "Instructional material" does not include learning material used in a concurrent
735 enrollment, advanced placement, or international baccalaureate program or class, or another
736 class with required instructional material that is not subject to selection by the charter school
737 governing board.

738 (iii) "Supplemental material" means learning material that:

739 (A) an educator selects for classroom use; and

740 (B) a charter school governing board has not considered and adopted, approved, or

741 prohibited for classroom use within the charter school.

742 (b) A charter school shall:

743 (i) make instructional material that the charter school uses readily accessible and
744 available for a parent to view;

745 (ii) annually notify a parent of a student enrolled in the charter school of how to access
746 the information described in Subsection ~~[(14)(b)(i)]~~ (13)(b)(i); and

747 (iii) include on the charter school's website information about how to access the
748 information described in Subsection ~~[(14)(b)(i)]~~ (13)(b)(i).

749 (c) In selecting and approving instructional materials for use in the classroom, a charter
750 school governing board shall:

751 (i) establish an open process, involving educators and parents of students enrolled in
752 the charter school, to review and recommend instructional materials for board approval; and

753 (ii) ensure that under the process described in Subsection ~~[(14)(c)(i)]~~ (13)(c)(i), the
754 charter school governing board:

755 (A) before the public meetings described in Subsection ~~[(14)(c)(ii)(B)]~~ (13)(c)(ii)(B),
756 posts the recommended learning materials online to allow for public review or, for copyrighted
757 material, makes the recommended learning material available at the charter school for public
758 review;

759 (B) before adopting or approving the recommended instructional materials, holds at
760 least two public meetings on the recommendation that provide an opportunity for educators
761 whom the charter school employs and parents of students enrolled in the charter school to
762 express views and opinions on the recommendation; and

763 (C) adopts or approves the recommended instructional materials in an open and regular
764 board meeting.

765 (d) A charter school governing board shall adopt a supplemental materials policy that
766 provides flexible guidance to educators on the selection of supplemental materials or resources
767 that an educator reviews and selects for classroom use using the educator's professional
768 judgment, including whether any process or permission is required before classroom use of the
769 materials or resources.

770 (e) If a charter school contracts with another party to provide online or digital
771 materials, the charter school shall include in the contract a requirement that the provider give

772 notice to the charter school any time that the provider makes a material change to the content of
773 the online or digital materials, excluding regular informational updates on current events.

774 (f) Nothing in this Subsection [(14)] (13) requires a charter school governing board to
775 review all learning materials used within the charter school.

776 Section 17. Section 53G-5-406 is amended to read:

777 **53G-5-406. Accountability -- Rules.**

778 The state board shall, after consultation with chartering entities, make rules in
779 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

780 (1) require a charter school to develop an accountability plan, approved by [its] the
781 charter school's charter school authorizer, during [its] the charter school's first year of
782 operation;

783 (2) require an authorizer to:

784 (a) visit a charter school at least once during:

785 (i) [its] the charter school's first year of operation; and

786 (ii) the review period described under Subsection (3); and

787 (b) provide written reports to [its] the authorizer's charter schools after the required
788 visits; and

789 (3) establish a [~~review~~] process that [~~is required of a~~] requires an authorizer to review
790 the authorizer's charter school once every five years [~~by its authorizer~~].

791 Section 18. Section 53G-5-413 is amended to read:

792 **53G-5-413. Charter school governing board meetings -- Rules of order and**
793 **procedure.**

794 (1) As used in this section, "rules of order and procedure" means a set of rules that
795 governs and prescribes in a public meeting:

796 (a) parliamentary order and procedure;

797 (b) ethical behavior; and

798 (c) civil discourse.

799 (2) A charter school governing board shall:

800 (a) adopt rules of order and procedure to govern a public meeting of the charter school
801 governing board;

802 (b) conduct a public meeting in accordance with the rules of order and procedure

803 described in Subsection (2)(a); and

804 (c) make the rules of order and procedure described in Subsection (2)(a) available to
805 the public[?].

806 [~~(i) at each public meeting of the charter school governing board; and~~

807 [~~(ii) on the charter school governing board's public website, if available.~~]

808 (3) The requirements of this section do not affect a charter school governing board's
809 duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

810 Section 19. Section **53G-5-501** is amended to read:

811 **53G-5-501. Noncompliance -- Rulemaking.**

812 (1) (a) If a charter school is found to be materially out of compliance with the
813 requirements of Section **53G-5-404** or the school's charter agreement, the charter school
814 authorizer shall [~~notify the following in writing that the charter school has a~~] provide written
815 notice of the reason for the charter school's noncompliance and a reasonable time to remedy the
816 deficiency, except as otherwise provided in Subsection **53G-5-503**(4)[?], to:

817 [~~(a)~~] (i) the charter school governing board; and

818 [~~(b)~~] (ii) if the charter school is a qualifying charter school with outstanding bonds
819 issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah
820 Charter School Finance Authority.

821 (b) The notice described in Subsection (1)(a) shall state that the charter school
822 governing board may request an informal review before the charter school's authorizer to
823 present evidence related to the deficiency.

824 (c) The charter school authorizer shall:

825 (i) review the evidence within a reasonable time to determine if the charter school has
826 remedied the noncompliance or if the circumstances necessitate additional time for the charter
827 school to remedy the deficiency; and

828 (ii) if the charter school authorizer determines that circumstances necessitate additional
829 time to remedy the noncompliance, establish a deadline to remedy the noncompliance.

830 (2) (a) If the charter school does not remedy the material deficiency within the
831 established timeline, the authorizer may:

832 (i) subject to the requirements of Subsection (4), take one or more of the following
833 actions:

- 834 (A) remove a charter school director or finance officer;
- 835 (B) remove a charter school governing board member;
- 836 (C) appoint an interim director, mentor, or finance officer to work with the charter
837 school; or
- 838 (D) appoint a governing board member;
- 839 (ii) subject to the requirements of Section [53G-5-503](#), terminate the school's charter
840 agreement; or
- 841 (iii) transfer operation and control of the charter school to a high performing charter
842 school, as defined in [~~Subsection [53G-5-502](#)(1)~~] [Section 53G-5-502](#), including reconstituting
843 the governing board to effectuate the transfer.
- 844 (b) The authorizer may prohibit the charter school governing board from removing an
845 appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the
846 appointment.
- 847 (3) The costs of an interim director, mentor, or finance officer appointed under
848 Subsection (2)(a) shall be paid from the funds of the charter school for which the interim
849 director, mentor, or finance officer is working, unless the authorizer chooses to pay all or some
850 of the costs.
- 851 (4) The authorizer shall notify the Utah Charter School Finance Authority before the
852 authorizer takes an action described in Subsection (2)(a)(i) if the charter school is a qualifying
853 charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit
854 Enhancement Program.
- 855 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
856 state board shall make rules:
- 857 (a) specifying the timeline for remedying deficiencies under Subsection (1); and
- 858 (b) ensuring [~~the~~] compliance [~~of a charter school~~] with [~~its~~] the charter school's
859 approved charter agreement.
- 860 (6) (a) An authorizer may petition the district court where a charter school is located or
861 incorporated to appoint a receiver, and the district court may appoint a receiver if the authorizer
862 establishes that the charter school:
- 863 (i) is subject to closure under Section [53G-5-503](#); and
- 864 (ii) (A) has disposed, or there is a demonstrated risk that the charter school will

865 dispose, of the charter school's assets in violation of [~~Subsection 53G-5-403(4)~~] Section
 866 53G-5-403; or

867 (B) cannot, or there is a demonstrated risk that the charter school will not, make
 868 repayment of amounts owed to the federal government or the state.

869 (b) The court shall describe the powers and duties of the receiver in the court's
 870 appointing order, and may amend the order from time to time.

871 (c) Among other duties ordered by the court, the receiver shall:

872 (i) ensure the protection of the charter school's assets;

873 (ii) preserve money owed to creditors; and

874 (iii) if requested by the authorizer, carry out charter school closure procedures
 875 described in Section 53G-5-504, and state board rules, as directed by the authorizer.

876 (d) If the authorizer does not request, or the court does not appoint, a receiver:

877 (i) the authorizer may reconstitute the governing board of a charter school; or

878 (ii) if a new governing board cannot be reconstituted, the authorizer shall complete the
 879 closure procedures described in Section 53G-5-504, including liquidation and assignment of

880 assets, and payment of liabilities and obligations in accordance with [~~Subsection~~

881 53G-5-504(7)] Section 53G-5-504 and state board rule.

882 (e) For a qualifying charter school with outstanding bonds issued in accordance with
 883 Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the consent of
 884 the Utah Charter School Finance Authority before the authorizer takes the following actions:

885 (i) petitions a district court to appoint a receiver, as described in Subsection (6)(a);

886 (ii) reconstitutes the governing board, as described in Subsection (6)(d)(i); or

887 (iii) carries out closure procedures, as described in Subsection (6)(d)(ii).

888 Section 20. Section **53G-5-502** is amended to read:

889 **53G-5-502. Voluntary school improvement and transfer processes.**

890 (1) As used in this section:

891 (a) "High performing charter school" means a charter school that:

892 (i) satisfies all requirements of state law and state board rules;

893 (ii) has operated for at least three years meeting the terms of the school's charter
 894 agreement; and

895 (iii) is in good standing with the charter school's authorizer.

896 (b) "Low performing charter school" means a charter school that is designated a low
897 performing school, as that term is defined in Section 53E-5-301.

898 (c) "School turnaround plan" means the same as that term is defined in Section
899 53E-5-301.

900 (2) (a) Subject to Subsection (2)(b), a charter school governing board may voluntarily
901 request the charter school's authorizer to place the charter school, including a low performing
902 charter school that has a school turnaround plan, in a school improvement process.

903 (b) A charter school governing board shall provide notice and a hearing on the charter
904 school governing board's intent to make a request under Subsection (2)(a) to parents of students
905 enrolled in the charter school.

906 (3) An authorizer may grant a charter school governing board's request to be placed in
907 a school improvement process if the charter school governing board has provided notice and a
908 hearing under Subsection (2)(b).

909 (4) An authorizer that has entered into a school improvement process with a charter
910 school governing board shall:

911 (a) enter into a contract with the charter school governing board on the terms of the
912 school improvement process;

913 (b) notify the state board that the authorizer has entered into a school improvement
914 process with the charter school governing board;

915 (c) make a report to a committee of the state board regarding the school improvement
916 process; and

917 (d) notify the Utah Charter School Finance Authority that the authorizer has entered
918 into a school improvement process with the charter school governing board if the charter
919 school is a qualifying charter school with outstanding bonds issued in accordance with Part 6,
920 Charter School Credit Enhancement Program.

921 (5) Upon notification under Subsection (4)(b), and after the report described in
922 Subsection (4)(c), the state board shall notify charter schools and the school district in which
923 the charter school is located that the charter school governing board has entered into a school
924 improvement process with the charter school's authorizer.

925 (6) A high performing charter school or the school district in which the charter school
926 is located may apply to the charter school governing board to assume operation and control of

927 the charter school that has been placed in a school improvement process.

928 (7) A charter school governing board that has entered into a school improvement
929 process shall review applications submitted under Subsection (6) and submit a proposal to the
930 charter school's authorizer to:

931 (a) terminate the school's charter, notwithstanding the requirements of Section
932 [53G-5-503](#); and

933 (b) transfer operation and control of the charter school to:

934 (i) the school district in which the charter school is located; ~~or~~

935 (ii) ~~[a high performing charter school.]~~ the governing board of another charter school;

936 (iii) a private management company; or

937 (iv) the governing board of a nonprofit corporation.

938 (8) A charter school governing board that has not entered into a school improvement
939 process may voluntarily provide a proposal to the authorizer for consideration of transferring
940 operation and control of the charter school to:

941 (a) the school district in which the charter school is located;

942 (b) the governing board of another charter school;

943 (c) a private management company; or

944 (d) the governing board of a nonprofit corporation.

945 ~~[(8)]~~ (9) Except as provided in Subsection ~~[(9)]~~ (10) and subject to Subsection ~~[(10)]~~;
946 (11), an authorizer may:

947 (a) approve a charter school governing board's proposal under Subsection (7); or

948 (b) (i) deny a charter school governing board's proposal under Subsection (7); and

949 (ii) (A) terminate the school's charter agreement in accordance with Section

950 [53G-5-503](#);

951 (B) allow the charter school governing board to submit a revised proposal; or

952 (C) take no action.

953 ~~[(9)]~~ (10) An authorizer may not take an action under Subsection ~~[(8)]~~ (9) for a

954 qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter

955 School Credit Enhancement Program, without mutual agreement of the Utah Charter School

956 Finance Authority and the authorizer.

957 ~~[(10)]~~ (11) (a) An authorizer that intends to transfer operation and control of a charter

958 school as described in Subsection (7)(b) shall request approval from the state board.

959 (b) (i) The state board shall consider an authorizer's request under Subsection [~~(10)(a)~~]
960 (11)(a) within 30 days of receiving the request.

961 (ii) If the state board denies an authorizer's request under Subsection [~~(10)(a)~~] (11)(a),
962 the authorizer may not transfer operation and control of the charter school as described in
963 Subsection (7)(b).

964 (iii) If the state board does not take action on an authorizer's request under Subsection
965 [~~(10)(a)~~] (11)(a) within 30 days of receiving the request, an authorizer may proceed to transfer
966 operation and control of the charter school as described in Subsection (7)(b).

967 [~~(11)~~] (12) If operation and control of a low performing charter school that has a school
968 turnaround plan is transferred to a high performing charter school as described in Subsection
969 (7)(b), the low performing charter school shall complete the requirements of the school
970 turnaround plan and any other requirements imposed by the authorizer for school improvement.

971 Section 21. Section **53G-5-503** is amended to read:

972 **53G-5-503. Termination of a charter agreement.**

973 (1) Subject to the requirements of Subsection (3), a charter school authorizer may
974 terminate a school's charter agreement for any of the following reasons:

975 (a) failure of the charter school to meet the requirements stated in the charter
976 agreement;

977 (b) failure to meet generally accepted standards of fiscal management;

978 (c) (i) designation as a low performing school under Title 53E, Chapter 5, Part 3,
979 School Improvement and Leadership Development; and

980 (ii) failure to improve the school's performance under the conditions described in Title
981 53E, Chapter 5, Part 3, School Improvement and Leadership Development;

982 (d) violation of requirements under this chapter or another law; or

983 (e) other good cause shown.

984 (2) (a) The authorizer shall notify the following of the proposed termination in writing,
985 state the grounds for the termination, and stipulate that the charter school governing board may
986 request an informal hearing before the authorizer:

987 (i) the charter school governing board; and

988 (ii) if the charter school is a qualifying charter school with outstanding bonds issued in

989 accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School
990 Finance Authority.

991 (b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in
992 accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after
993 ~~[receiving]~~ the day a written request under Subsection (2)(a) is received.

994 (c) If the authorizer, by majority vote, approves a motion to terminate a charter school,
995 the charter school governing board may appeal the decision to the state board.

996 (d) (i) The state board shall hear an appeal of a termination made ~~[pursuant to]~~ in
997 accordance with Subsection (2)(c).

998 (ii) The state board's action is final action subject to judicial review.

999 (e) (i) If the authorizer proposes to terminate the charter agreement of a qualifying
1000 charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit
1001 Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b)
1002 120 days or more after notifying the following of the proposed termination:

1003 (A) the charter school governing board of the qualifying charter school; and

1004 (B) the Utah Charter School Finance Authority.

1005 (ii) ~~[Prior to]~~ Before the hearing described in Subsection (2)(e)(i), the Utah Charter
1006 School Finance Authority shall meet with the authorizer to determine whether the deficiency
1007 may be remedied in lieu of termination of the qualifying charter school's charter agreement.

1008 (3) An authorizer may not terminate the charter agreement of a qualifying charter
1009 school with outstanding bonds issued in accordance with Part 6, Charter School Credit
1010 Enhancement Program, without mutual agreement of the Utah Charter School Finance
1011 Authority and the authorizer.

1012 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1013 the state board shall make rules that require a charter school to report any threats to the health,
1014 safety, or welfare of ~~[its]~~ the charter school's students to the State Charter School Board in a
1015 timely manner.

1016 (b) The rules under Subsection (4)(a) shall also require the charter school report to
1017 include what steps the charter school has taken to remedy the threat.

1018 (5) Subject to the requirements of Subsection (3), the authorizer may terminate a
1019 charter agreement immediately if good cause has been shown or if the health, safety, or welfare

1020 of the students at the charter school is threatened.

1021 (6) If a charter agreement is terminated, the following entities may apply to the charter
1022 school's authorizer to assume operation of the school:

- 1023 (a) the school district where the charter school is located;
- 1024 (b) the charter school governing board of another charter school;
- 1025 (c) a private management company; or
- 1026 (d) the governing board of a nonprofit corporation.

1027 (7) (a) If a charter agreement is terminated, a student who attended the school may
1028 apply to and shall be enrolled in another public school under the enrollment provisions [of] in
1029 accordance with Chapter 6, Part 3, School District Residency, subject to space availability.

1030 (b) Normal application deadlines shall be disregarded under Subsection (7)(a).

1031 Section 22. Section **53G-5-504** is amended to read:

1032 **53G-5-504. Charter school closure.**

1033 (1) As used in this section, "receiving charter school" means a charter school that an
1034 authorizer permits under Subsection (12)(a), to accept enrollment applications from students of
1035 a closing charter school.

1036 (2) If a charter school is closed for any reason, including the termination of a charter
1037 agreement in accordance with Section **53G-5-503** or the conversion of a charter school to a
1038 private school, the provisions of this section apply.

1039 (3) A decision to close a charter school is made:

1040 (a) when a charter school authorizer approves a motion to terminate described in
1041 Subsection [~~53G-5-503(2)(c)~~] 53G-5-503;

1042 (b) when the state board takes final action described in Subsection
1043 [~~53G-5-503(2)(d)(ii)~~] 53G-5-503; or

1044 (c) when a charter school provides notice to the charter school's authorizer that the
1045 charter school is relinquishing the charter school's charter.

1046 (4) (a) No later than 10 days after the day on which a decision to close a charter school
1047 is made, the charter school shall:

1048 (i) provide notice to the following, in writing, of the decision:

1049 (A) if the charter school made the decision to close, the charter school's authorizer;

1050 [~~(B) the State Charter School Board;~~]

1051 [~~(C)~~] (B) if the state board did not make the decision to close, the state board;
1052 [~~(D)~~] (C) parents of students enrolled at the charter school;
1053 [~~(E)~~] (D) the charter school's creditors;
1054 [~~(F)~~] (E) the charter school's lease holders;
1055 [~~(G)~~] (F) the charter school's bond issuers;
1056 [~~(H)~~] (G) other entities that may have a claim to the charter school's assets;
1057 [~~(I)~~] (H) the school district in which the charter school is located and other charter
1058 schools located in that school district; and
1059 [~~(J)~~] (I) any other person that the charter school determines to be appropriate; and
1060 (ii) publish notice of the decision for the school district in which the charter school is
1061 located, as a class A notice under Section [63G-30-102](#), for at least 30 days.
1062 (b) The notice described in Subsection (4)(a) shall include:
1063 (i) the proposed date of the charter school closure;
1064 (ii) the charter school's plans to help students identify and transition into a new school;
1065 and
1066 (iii) contact information for the charter school during the transition.
1067 (5) No later than 10 days after the day on which a decision to close a charter school is
1068 made, the closing charter school shall:
1069 (a) designate a custodian for the protection of student files and school business records;
1070 (b) designate a base of operation that will be maintained throughout the charter school
1071 closing, including:
1072 (i) an office;
1073 (ii) hours of operation;
1074 (iii) operational telephone service with voice messaging stating the hours of operation;
1075 and
1076 (iv) a designated individual to respond to questions or requests during the hours of
1077 operation;
1078 (c) assure that the charter school will maintain private insurance coverage or risk
1079 management coverage for covered claims that arise before closure, throughout the transition to
1080 closure and for a period following closure of the charter school as specified by the charter
1081 school's authorizer;

1082 (d) assure that the charter school will complete by the set deadlines for all fiscal years
1083 in which funds are received or expended by the charter school a financial audit and any other
1084 procedure required by state board rule;

1085 (e) inventory all assets of the charter school; and

1086 (f) list all creditors of the charter school and specifically identify secured creditors and
1087 assets that are security interests.

1088 (6) The closing charter school's authorizer shall oversee the closing charter school's
1089 compliance with Subsection (5).

1090 (7) (a) Unless a different order is determined by a bankruptcy court under 11 U.S.C.
1091 Sec. 1001 et seq., a closing charter school shall distribute the assets of the closing charter
1092 school in the following order:

1093 (i) return assets donated by a private donor to the private donor if:

1094 (A) the assets were donated for a specific purpose;

1095 (B) the private donor restricted use of the assets to only that specific purpose; and

1096 (C) the closing charter school has assets that have not been used for the specific
1097 purpose;

1098 (ii) distribute assets to satisfy outstanding payroll obligations for employees of the
1099 closing charter school;

1100 (iii) distribute assets to creditors of the closing charter school; and

1101 (iv) distribute assets to satisfy any outstanding liability or obligation to the state board,
1102 state, or federal government.

1103 (b) A closing charter school shall return any assets remaining, after all liabilities and
1104 obligations of the closing charter school are paid or discharged consistent with Subsection
1105 (7)(a), to the closing charter school's authorizer.

1106 (c) Upon receipt of the assets under Subsection (7)(b), the closing charter school's
1107 authorizer shall:

1108 (i) liquidate assets at fair market value; or

1109 (ii) assign the assets to another public school.

1110 (d) The closing charter school's authorizer shall oversee liquidation of assets and
1111 payment of liabilities and obligations in accordance with this section, Sections [53F-9-307](#) and
1112 [53G-5-501](#), and state board rule.

- 1113 (8) The closing charter school shall:
- 1114 (a) comply with all state and federal reporting requirements; and
- 1115 (b) submit all documentation and complete all state and federal reports required by the
- 1116 closing charter school's authorizer or the state board, including documents to verify the closing
- 1117 charter school's compliance with procedural requirements and satisfaction of all financial
- 1118 issues.
- 1119 (9) When the closing charter school's financial affairs are closed out and dissolution is
- 1120 complete, the authorizer shall ensure that a final audit of the charter school is completed.
- 1121 (10) [~~On or before January 1, 2017, the~~] The state board shall, in accordance with Title
- 1122 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from
- 1123 charter school authorizers, make rules that:
- 1124 (a) provide additional closure procedures for charter schools; and
- 1125 (b) establish a charter school closure process.
- 1126 (11) (a) Upon termination of the charter school's charter agreement:
- 1127 (i) notwithstanding provisions [~~to the contrary in~~] of Title 16, Chapter 6a, Part 14,
- 1128 Dissolution, the nonprofit corporation under which the charter school is organized and
- 1129 managed may be unilaterally dissolved by the authorizer; and
- 1130 (ii) the net assets of the charter school shall revert to the authorizer as described in
- 1131 Subsection (7).
- 1132 (b) The charter school and the authorizer shall mutually agree in writing on the
- 1133 effective date and time of the dissolution described in Subsection (11)(a).
- 1134 (c) The effective date and time of dissolution described in Subsection (11)(b) may not
- 1135 exceed five years after the date of the termination of the charter agreement.
- 1136 (12) Notwithstanding the provisions of Chapter 6, Part 5, Charter School Enrollment:
- 1137 (a) an authorizer may permit a specified number of students from a closing charter
- 1138 school to be enrolled in another charter school, if the receiving charter school:
- 1139 (i) (A) is authorized by the same authorizer as the closing charter school; or
- 1140 (B) is authorized by a different authorizer and the authorizer of the receiving charter
- 1141 school approves the increase in enrollment; and
- 1142 (ii) agrees to accept enrollment applications from students of the closing charter
- 1143 school;

1144 (b) a receiving charter school shall give new enrollment preference to applications
1145 from students of the closing charter school in the first school year in which the closing charter
1146 school is not operational; and

1147 (c) a receiving charter school's enrollment capacity is increased by the number of
1148 students enrolled in the receiving charter school from the closing charter school under this
1149 Subsection (12).

1150 (13) A member of the governing board or staff of the receiving charter school that is
1151 also a member of the governing board of the receiving charter school's authorizer, shall recuse
1152 [~~himself or herself~~] oneself from a decision regarding the enrollment of students from a closing
1153 charter school as described in Subsection (12).

1154 Section 23. **Effective date.**

1155 This bill takes effect on May 1, 2024.